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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,422	04/10/2001	Luke Surazski	2705-150	9550
20575	7590	01/05/2006	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			VAUGHN JR, WILLIAM C	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/832,422

Applicant(s)

SURAZSKI, LUKE

Examiner

William C. Vaughn, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-9,12-19,22-31 and 34-42 is/are rejected.
- 7) ☐ Claim(s) 3,4,10,11,20,21,32 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Action is in regards to the most recent papers received on 14 June 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5-9, 12-19, 22-31 and 34-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen, U.S. Patent No. 6,859,460 in view of Scott et al. (Scott), U.S. Patent No. 6,816,464 and in further view of Smith et al. (Smith), U.S. Patent No. 6,862,298.
4. Regarding **claim 1**, Chen discloses the invention substantially as claimed. Chen discloses *a device comprising: a network interface for coupling to a network [see Chen, Figure 1]; a memory [see Chen, item 30]; a processor [see Chen, item 28] coupled with the network interface [see Chen, item 26]; retrieve a first jitter record for the first network region [see Chen, Col. 4, lines 46-60]. However, Chen does not explicitly disclose wherein the processor is adapted to consider a first connection through a network with a first endpoint of the network as well as and allocated a first portion of a memory for jitter for jitter buffer storage for the first connection, the first portion having a size in accordance with the first jitter data in the first jitter record.*
5. In the same field of endeavor, Scott discloses (e.g., method, system and computer program product for route quality checking and management). Scott discloses *wherein the processor is adapted to; consider a first connection through a network with a first endpoint of*

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the network identify a first region in the network of the first network endpoint [see Scott, Col. 2, lines 25-63].

6. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Scott's teachings of a method, system and computer program product for route quality checking and management with the teachings of Chen, for the purpose of a system that enables users to access the route quality checking and management and/or other route information for a particular group or individual. However, Chen-Scott does not explicitly disclose allocated a first portion of a memory for jitter for jitter buffer storage for the first connection, the first portion having a size in accordance with the first jitter data in the first jitter record.

7. In the same field of endeavor, Smith discloses (e.g., adaptive jitter buffer for internet telephony). Smith discloses allocated a first portion of a memory for jitter for jitter buffer storage for the first connection, the first portion having a size in accordance with the first jitter data in the first jitter record [see Smith, Col. 7, lines 21-33].

8. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Smith's teachings of adaptive jitter buffer for internet telephony with the teachings of Chen-Scott for the purpose of being able to adapt to changing network conditions [see Smith, Col. 2, lines 20-24]. By this rationale claim 1 is rejected.

9. Regarding **claim 2**, Chen-Scott and Smith discloses *the first connection is a VOIP connection* [see Chen, Col. 4, lines 40-57]. By this rationale **claim 2** is rejected.

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10. Regarding **claim 5**, Chen-Scott and Smith discloses *wherein the first jitter data contains a first jitter performance statistic of a formerly tracked jitter of a least one endpoint in the first region* [see rejection of claim 1, supra]. By this rationale **claim 5** is rejected.

11. Regarding **claim 6**, Chen-Scott and Smith discloses *wherein the first jitter performance statistic is determined from at least one of a cumulative average jitter and a cumulative jitter variability* [see Scott, Col. 11, lines 25-35]. By this rationale **claim 6** is rejected.

12. Regarding **claim 7**, Chen-Scott and Smith discloses *wherein the processor is further adapted to: establish the first connection; track a jitter while communicating over the first connection* [see rejection of claim 1, supra]; *and update the first jitter performance statistic in accordance with the tracked jitter* [see Scott, Col. 5, lines 18-40]. By this rationale **claim 7** is rejected.

13. **Claims 8 and 12-18** is substantially the same as **claims 1, 2 and 5-7** and is thus rejected for reasons similar to those in rejecting **claims 1, 2 and 5-7**.

14. **Claims 19 and 22-29** list all the same elements of **claims 1, 2, 5-8 and 12-18**, but in article form rather than device and means form. Therefore, the supporting rationale of the rejection to **claims 1, 2, 5-8 and 12-18** applies equally as well to **claims 19 and 22-29**.

15. **Claims 30, 31 and 34-42** list all the same elements of **claims 1, 2, 5-8 and 12-18**, but in method form rather than device and means form. Therefore, the supporting rationale of the rejection to **claims 1, 2, 5-8 and 12-18** applies equally as well to **claims 30, 31 and 34-42**.

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Allowable Subject Matter

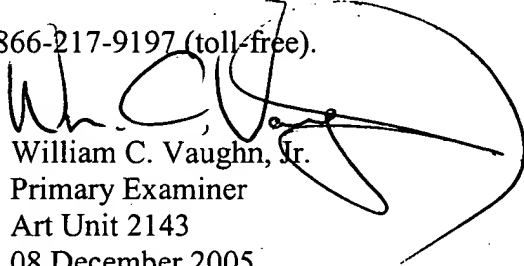
16. Claims 3, 4, 10, 11, 20, 21, 32 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (571) 272-3922. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William C. Vaughn, Jr.
Primary Examiner
Art Unit 2143
08 December 2005

WCV